

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO**

In re:

JOSE HUMBERTO SANTIAGO FORTIER  
& ROSA GINORIS ORTOLAZA ROSARIO

*Debtor(s)*

***BANCO POPULAR***

*Movant*

v.

**JOSE HUMBERTO SANTIAGO FORTIER  
& ROSA GINORIS ORTOLAZA ROSARIO**

*Respondent(s)*

Case No. 16-08870(EAG)

Chapter 7

**REPLY TO BANCO POPULAR'S  
MOTION FOR RELIEF FROM STAY UNDER 11 USC SEC. 362**

**TO THE HONORABLE COURT:**

**COME NOW** Debtors, through the undersigned counsel, and very respectfully answer the Motion for Relief from Stay as follows:

1. Paragraph 1 does not require a responsive pleading.
2. Paragraph 2 is admitted.
3. Paragraph 3 is denied.
4. Paragraph 4 is admitted with regards to the amounts of months in pre-petition arrears. The rest of the allegations are denied.
5. Paragraph 5 is denied.
6. Paragraph 6 is admitted.
7. Paragraph 7 does not require a responsive pleading.

### **AFFIRMATIVE DEFENSES**

8. On November 14, 2016, Debtors filed a Voluntary Petition for relief under Chapter 7 of the Bankruptcy Code. [Dkt. 1]

9. On November 28, 2016, **BANCO POPULAR** filed a Motion for Relief from Automatic Stay under section 362, alleging that the Debtors have an indebtedness of 3 months of pre-petition arrears for a total of **\$6,356.72 including** legal fees, and other charges. [Dkt. 17]

10. On November 1, 2016, Debtors submitted documents to seek a loss mitigation process for the Calle Fraile 440 Property in Ponce.

11. In the case at bar, the 341 meeting of creditors has been continued to January 10, 2017. The Chapter 7 Trustee has yet to pronounce itself as to the treatment of the property in this proceeding. Moreover, upon information and belief, the property has sufficient equity to afford Movant adequate protection of its interest.

12. Based on the foregoing, Debtors respectfully submit that the aforementioned Motion for Relief from Stay should be denied.

13. Movant has not complied with all requirements for obtaining the relief requested imposed by the Due Process of the Law, Bankruptcy Code, the Federal Bankruptcy Rules, and the Local Rules for the District of Puerto Rico.

### **NOTICE**

Within fourteen **(14) days** after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the US Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will automatically send notification of such filing to all CM/ECF participants including the US Trustee, the Case Trustee, and counsel for **BANCO POPULAR**.

**I FURTHER CERTIFY** that on this same date I sent a copy of the present document through regular US Mail to **BANCO POPULAR** at **BANKRUPTCY DEPT. PO BOX 366818, SAN JUAN, PR, 00936-6818**.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 13<sup>th</sup> day of December, 2016.

*/s/ Javier Vilariño*  
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